

From: "Brian D. Boydston, Esq." <brianb@ix.netcom.com...

To: "Olaniran,Greg" <goo@msk.com>, "Plovnick,Lucy" <lhp@msk.com>

Cc: "Dominique,Alesha" <amd@msk.com>

Subject: RE: 2010-2013 Proceedings

Date: Jul 20, 2018 6:06 PM

Greg, you are saying that the request to put together our respective experts is "at this late hour", yet we are still weeks away from a hearing that could be entirely obviated by the MPAA's cooperation at this juncture.

As we have said, MC will accept the MPAA's royalty shares as presented in the MPAA's written direct statements if the MPAA will assist MC to replicate the calculations.

Surely that is reasonable, unless you are insisting that Multigroup Claimants agrees in advance to accept Dr. Gray's yet-to-be-verified calculations, even if such calculations cannot be verified and might create different results. As Multigroup

Claimants has already agreed to accept the resulting shares if Dr. Gray's calculations can be verified, I can only interpret the MPAA's lack of cooperation as an effort to obfuscate Dr. Gray's calculations.

If you refuse to reasonably assist us in replicating the MPAA calculations, that is your prerogative, but at the hearing we will explain that had the MPAA simply assisted us in good faith, no hearing would be necessary, but because the MPAA refused to do so, we have not been able to replicate the calculations.

I suggest we simply try to work together to save everyone's time, including the Judges.

Brian

-----Original Message-----

From: "Olaniran, Greg"

Sent: Jul 20, 2018 10:24 AM

To: "'Brian D. Boydston, Esq.'" , "Plovnick, Lucy"

Cc: "Dominique, Alesha"

Subject: RE: 2010-2013 Proceedings

Brian,

Again, MPAA has produced all materials necessary for a competent analyst to replicate and test Dr. Gray's methodology. And several experts have replicated and tested that methodology. For the reasons stated in my initial response, MPAA is not willing to make

Dr. Gray available to MC for MC's convenience at this late hour unless MC is prepared to accept MPAA's royalty shares as presented in MPAA's written direct statements. If MC is willing to accept MPAA's terms, please let us know, and we will draft a Joint Notice to be filed with the Judges informing them that no controversy exists as to the royalty shares to be allocated in the Program Suppliers category, similar to the notice that MC filed recently regarding the Devotional category.

Greg

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Available

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Gregory O. Olaniran | Partner, through his professional corporation

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From: Brian D. Boydston, Esq. <brianb@ix.netcom.com>

Sent: Thursday, July 19, 2018 4:41 PM

To: Olaniran, Greg <goo@msk.com>; Plovnick, Lucy <lh@msk.com>

Cc: Dominique, Alesha <amd@msk.com>

Subject: RE: 2010-2013 Proceedings

Greg, Multigroup Claimants has already accepted the MPAA proposed shares subject only to verification of their accuracy. Consequently whatever advantage you believe may have been possible, it is simply not in the cards. The fact that Multigroup Claimants was not able to open the methodology and apply it to the devotional programming category possibly harmed it in that respect. As has been documented in pleadings, it was Multigroup Claimants' intent to apply the MPAA methodology to the devotional programming category and see if the results were demonstrably different.

Given the foregoing, I'm not certain what you are asking other than to confirm what has already been formally stated. If the MPAA figures can be validated, we move on to the appeal and it moots all of this.

Brian

-----Original Message-----

From: "Olaniran, Greg"

Sent: Jul 19, 2018 12:13 PM

To: "'Brian D. Boydston, Esq.'" , "Plovnick, Lucy"

Cc: "Dominique, Alesha"

Subject: RE: 2010-2013 Proceedings

Brian,

We view this latest request as another maneuver to circumvent the regulations and effectively buy more time for MC to file rebuttal testimony. Per the Judges' Order, on March 26, 2018, MPAA produced all of the documents and data necessary for a competent analyst to replicate and test Dr. Gray's methodology. In the three-month period following Multigroup Claimants' receipt of MPAA's discovery material prior to the deadline for filing written rebuttal statements, MC neither propounded follow-up discovery requests nor made any attempt whatsoever to contact us regarding difficulties with testing Dr. Gray's methodology or replicating his results. MC chose instead to sit on its hands during that period. Now, three and 1/2 weeks away from the hearing, and with written rebuttal statements already filed, MC seeks some sort of expert witness "meet and confer" supposedly to understand Dr. Gray's calculations.

We doubt the sincerity of this request for good reason. First, in the recent 2010-13 Cable Allocation Phase proceeding, five different experts successfully replicated and tested Dr. Gray's methodology using the very same documents and data that MPAA produced to MC in this proceeding. Second, MC is in the same position now as it was prior to filing its rebuttal testimony when it could have followed up with us with any questions regarding the documents and data that we produced. If, in fact, MC had difficulties with testing and replicating Dr. Gray's work, the time to seek clarity was before written rebuttal statements were filed, not afterwards on the eve of the hearing.

What MC seeks to do now is have a second bite at the discovery apple having failed to propound follow up discovery in a timely fashion the first time around. The outcome of this so called "meet and confer" can only benefit MC, in that it would be an excuse for MC to seek to submit additional written rebuttal testimony out of time. This would be patently unfair to MPAA which has followed the regulations.

MPAA remains willing to resolve this matter with MC only if MC will accept the royalty shares for the Program Suppliers category that were included in MPAA's written direct statements. If MC will not accept those shares, then we believe a hearing will be necessary.

Gregory O. Olaniran | Partner, through his professional corporation

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-----Original Message-----

From: Brian D. Boydston, Esq. <brianb@ix.netcom.com>

Sent: Monday, July 16, 2018 4:52 PM

To: Olaniran, Greg <goo@msk.com>; Plovnick, Lucy <lh@msk.com>

Subject: 2010-2013 Proceedings

Dear Greg and Lucy,

With regard to Dr. Gray's methodology in the 2010-2013 proceedings, our goal is not simply to complain about replication issues, but to be able to open his files and replicate his methodological calculations. To that end, might it be helpful for Dr. Gray and Dr. Kremelberg to speak directly on an informal basis (or formal if you'd prefer) to see if Dr. Gray could help Dr. Kremelberg overcome the problems he is having?

Our hope is that Dr. Kremelberg can open and replicate Dr. Gray's work, perhaps then even obviating the need for a hearing in this matter.

Brian

Proof of Delivery

I hereby certify that on Wednesday, July 25, 2018 I provided a true and correct copy of the Exhibit A to the following:

Joint Sports Claimants (JSC), represented by Michael E Kientzle served via Electronic Service at michael.kientzle@apks.com

National Association of Broadcasters (NAB) aka CTV, represented by Ann Mace served via Electronic Service at amace@crowell.com

Settling Devotional Claimants (SDC), represented by Matthew J MacLean served via Electronic Service at matthew.maclean@pillsburylaw.com

MPAA-Represented Program Suppliers (MPAA), represented by Lucy H Plovnick served via Electronic Service at lhp@msk.com

Public Television Claimants (PTC), represented by Dustin Cho served via Electronic Service at dcho@cov.com

Canadian Claimants Group, represented by Lawrence K Satterfield served via Electronic Service at lksatterfield@satterfield-pllc.com

Signed: /s/ Brian D Boydston